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DEPARTMENT OF COMMERCE

International Trade Administration

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Multilayered Wood Flooring from the People's Republic of China: Final Clarification of the Scope of the Antidumping and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On April 19, 2017, the Department of Commerce (Department) published a proposed clarification of the scope of the antidumping and countervailing duty orders on multilayered wood flooring (wood flooring) from the People's Republic of China (PRC). Based on comments from interested parties, the Department has further clarified the scope of this order.

DATES: Effective (Insert date of publication in the *Federal Register*).

FOR FURTHER INFORMATION CONTACT: Jesus Saenz or Michael Bowen, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: 202-482-8184 or 202-482-0768, respectively.

SUPPLEMENTARY INFORMATION:

Background

The regulations governing the Department's scope determinations are found at 19 CFR 351.225.

In past scope determinations,¹ in accordance with 19 CFR 351.225(k)(1), the Department has relied on

¹ See e.g., Department Memorandum, "Final Scope Ruling on the Antidumping and Countervailing Duty Orders on Multilayered Wood Flooring from the People's Republic of China: Request by Dunhua Shengda Wood Industry Co., Ltd., dated December 14, 2016; and Department Memorandum, "Final Scope Ruling on the Antidumping and Countervailing Duty Orders on Multilayered Wood Flooring from the People's Republic of China: Request by Alston, Inc.," dated March 12, 2013.

the scope language, along with descriptions of the merchandise contained in the petitions, the initial investigations, prior scope determinations, and rulings by the International Trade Commission (ITC) to determine that two-layer wood flooring products are outside the scope of the *Orders*.²

On April 19, 2017, the Department published the *Proposed Scope Clarification*³ to provide notice that the Department intends to clarify the scope of the *Orders* due to the large number of scope ruling requests concerning wood flooring products consisting of only two layers. Interested parties were invited to comment on the intended clarification.

Comments on the *Proposed Scope Clarification*

The Department received two comment submissions from two groups of interested parties during the comment period.⁴ The first group agrees that the Department has received a large number of scope ruling requests concerning two-layer wood flooring products, and notes that the requests are being filed not because the order language is ambiguous, but, rather, because of concern that U.S. Customs and Border Protection (CBP) officials may not always distinguish between two-ply and subject merchandise.⁵ This group, therefore, does not believe that the *Proposed Scope Clarification* will necessarily eliminate the number of scope ruling requests received by the Department, and proposes, as an alternative, that the Department work more closely with CBP to ensure CBP knows the difference between subject and non-subject merchandise.⁶ Nonetheless, to the extent the clarification language is

² See *Multilayered Wood Flooring from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 76 FR 76690 (December 8, 2011) and *Multilayered Wood Flooring from the People's Republic of China: Countervailing Duty Order*, 76 FR 76693 (December 8, 2011), as amended, *Multilayered Wood Flooring from the People's Republic of China: Amended Antidumping and Countervailing Duty Orders*, 77 FR 5484 (February 3, 2012) (collectively, *Orders*).

³ See *Multilayered Wood Flooring from the People's Republic of China: Clarification of the Scope of the Antidumping and Countervailing Duty Orders*, 82 FR 18420 (April 19, 2017) (*Proposed Scope Clarification*).

⁴ See Letter from Anhui Boya Bamboo & Wood Products Co., Ltd., *et al.*, "Multilayered Wood Flooring from the People's Republic of China: Comments on Scope Clarification", dated May 1, 2017 (*Anhui Boya Bamboo & Wood Products Co., Ltd., et al., Comments*); and Letter from Zhejiang Dandongwu GreenHome Wood Co., Ltd., *et al.*, "Multilayered Wood Flooring from the People's Republic of China: Comments on the Department's Proposed Scope Clarification, dated May 1, 2017 (*Zhejiang Dadongwu GreenHome Wood Co., Ltd., et al., Comments*).

⁵ *Anhui Boya Bamboo & Wood Products Co., Ltd., et al., Comments* at 1.

⁶ *Id.* at 1-2.

merely meant to reiterate the scope rulings that have already been issued, and is not intended to change the scope of the *Orders*, this group does not object.⁷

The second group agrees with the *Proposed Scope Clarification* and deems the language necessary to reflect more definitively that two-layer wood flooring products are excluded from the scope of the *Orders*, as it will expedite handling of entries by CBP and eliminate the need for further scope rulings.⁸ This group also proposes that the Department insert additional clarifying language to the exclusion section of the existing written scope description in order to emphasize the exclusion of two-layer wood flooring products from the scope of the *Orders* as follows: “Also excluded is wood flooring composed of two layers. Two layered flooring typically consists of a single wood veneer, or ply, in combination with a base layer of various constructions and materials, which may include wood.”⁹

No other parties, including the petitioner, commented on the *Proposed Scope Clarification*.

Final Scope Clarification

The *Proposed Scope Clarification* is meant to clarify the Department’s interpretation of the scope of the *Orders*, as provided in numerous past scope determinations, that the wood flooring products covered by the *Orders* are composed of a minimum of three layers. This clarification is not intended to change the scope of wood flooring products covered by the *Orders*, but is merely meant to clarify and inform the public and CBP that the Department has consistently interpreted the scope of the *Orders* to cover wood flooring products composed of a minimum of three layers. Further, this clarification will expedite CBP’s processing of entries of both subject and non-subject wood flooring products, and reduce the need for further scope rulings with respect to two-layer wood flooring products.

However, in light of the comments received, and to further reiterate that the clarification is not intended to change the scope of wood flooring products covered by the *Orders*, but is merely meant to

⁷ *Id.* at 2.

⁸ *Zhejiang Dadongwu GreenHome Wood Co., Ltd., et al., Comments* at 2.

⁹ *Id.* at 2-3.

clarify the Department's interpretation, for purposes of this final scope clarification we are including an interpretive note as a footnote to the scope language, rather than add clarifying language to the scope itself. *See Scope of the Orders* section below at note 11. We are adopting this clarification for all segments of the proceeding under the *Orders* for which a determination is made on or after the effective date of this notice. We intend to notify CBP of this final scope clarification.

Lastly, although certain parties propose changing the existing scope by adding language specifically excluding two-layered flooring, we have not adopted this change. We find that the changes adopted herein are sufficient to accomplish the goals of the clarification, and that further language regarding a specific exclusion for two-layered flooring is not necessary.

Scope of the *Orders*

Multilayered wood flooring is composed of an assembly of two or more layers or plies of wood veneer(s)¹⁰ in combination with a core.¹¹ The several layers, along with the core, are glued or otherwise bonded together to form a final assembled product. Multilayered wood flooring is often referred to by other terms, *e.g.*, “engineered wood flooring” or “plywood flooring.” Regardless of the particular terminology, all products that meet the description set forth herein are intended for inclusion within the definition of subject merchandise.

All multilayered wood flooring is included within the definition of subject merchandise, without regard to: dimension (overall thickness, thickness of face ply, thickness of back ply, thickness of core, and thickness of inner plies; width; and length); wood species used for the face, back and inner veneers; core composition; and face grade. Multilayered wood flooring included within the definition of subject merchandise may be unfinished (*i.e.*, without a finally finished surface to protect the face veneer from

¹⁰ A “veneer” is a thin slice of wood, rotary cut, sliced or sawed from a log, bolt or flitch. Veneer is referred to as a ply when assembled.

¹¹ Department of Commerce Interpretive Note: The Department interprets this language to refer to wood flooring products with a minimum of three layers.

wear and tear) or "prefinished" (i.e., a coating applied to the face veneer, including, but not exclusively, oil or oil-modified or water-based polyurethanes, ultra-violet light cured polyurethanes, wax, epoxy-ester finishes, moisture-cured urethanes and acid-curing formaldehyde finishes). The veneers may be also soaked in an acrylic-impregnated finish. All multilayered wood flooring is included within the definition of subject merchandise regardless of whether the face (or back) of the product is smooth, wire brushed, distressed by any method or multiple methods, or hand-scraped. In addition, all multilayered wood flooring is included within the definition of subject merchandise regardless of whether or not it is manufactured with any interlocking or connecting mechanism (for example, tongue-and-groove construction or locking joints). All multilayered wood flooring is included within the definition of the subject merchandise regardless of whether the product meets a particular industry or similar standard.

The core of multilayered wood flooring may be composed of a range of materials, including but not limited to hardwood or softwood veneer, particleboard, medium-density fiberboard, high-density fiberboard ("HDF"), stone and/or plastic composite, or strips of lumber placed edge-to-edge.

Multilayered wood flooring products generally, but not exclusively, may be in the form of a strip, plank, or other geometrical patterns (e.g., circular, hexagonal). All multilayered wood flooring products are included within this definition regardless of the actual or nominal dimensions or form of the product. Specifically excluded from the scope are cork flooring and bamboo flooring, regardless of whether any of the sub-surface layers of either flooring are made from wood. Also excluded is laminate flooring. Laminate flooring consists of a top wear layer sheet not made of wood, a decorative paper layer, a core-layer of HDF, and a stabilizing bottom layer.

Imports of the subject merchandise are provided for under the following subheadings of the Harmonized Tariff Schedule of the United States ("HTSUS"): 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.0620; 4412.31.0640; 4412.31.0660; 4412.31.2510; 4412.31.2520; 4412.31.2610;

4412.31.2620; 4412.31.3175; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.4075;
4412.31.4080; 4412.31.4140; 4412.31.4160; 4412.31.4175; 4412.31.5125; 4412.31.5135; 4412.31.5155;
4412.31.5165; 4412.31.5175; 4412.31.5225; 4412.31.6000; 4412.31.9100; 4412.32.0520; 4412.32.0540;
4412.32.0560; 4412.32.0565; 4412.32.0570; 4412.32.0640; 4412.32.0665; 4412.32.2510; 4412.32.2520;
4412.32.2525; 4412.32.2530; 4412.32.2610; 4412.32.2625; 4412.32.3125; 4412.32.3135; 4412.32.3155;
4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.3225; 4412.32.5600; 4412.32.5700; 4412.39.1000;
4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039;
4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010;
4412.39.5030; 4412.39.5050; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121;
4412.94.3131; 4412.94.3141; 4412.94.3160; 4412.94.3171; 4412.94.4100; 4412.94.5100; 4412.94.6000;
4412.94.7000; 4412.94.8000; 4412.94.9000; 4412.94.9500; 4412.99.0600; 4412.99.1020; 4412.99.1030;
4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160;
4412.99.3170; 4412.99.4100; 4412.99.5100; 4412.99.5105; 4412.99.5115; 4412.99.5710; 4412.99.6000;
4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.99.9500; 4418.71.2000; 4418.71.9000; 4418.72.2000;
4418.72.9500; 4418.74.2000; 4418.74.9000; 4418.75.4000; 4418.75.7000; 4418.79.0100; and
9801.00.2500.

While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

Dated: June 13, 2017

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